

-7-

REMARKS

This amendment is responsive to the Office Action of June 23, 2008. Reconsideration and allowance of claims 1-10 and 12-14 are requested.

The Office Action

Claims 1, 3, 5, 7, 8, and 11 stand rejected under 35 U.S.C. § 103 as being unpatentable over Morse (US 6,530,237) in view of Okumura (JP 2000/266416; US 5,010,737).

Claims 4, 6, 9, and 10 were indicated as containing allowable subject matter.

Amendments to the Drawings

The applicants propose amending the Figure to label it as Figure 1 and to add a second sheet of drawings (Figure 2) in which the nozzle 28 has been replaced by a return valve. This amendment finds antecedent basis on page 7, lines 27-28 of the application as filed. An early approval of the amended drawings is requested.

The Claims Are Now in Condition For Allowance

Morse provides an apparatus and method for controlling a system pressure in a refrigeration system by sensing both the return pressure and the high side or supply pressure. Further, a pressure difference between the return pressure and the supply pressure is calculated by Morse. The control function of Morse is then performed in such a manner that the pressure difference is maintained constant.

By distinction, claim 1 calls for the pressure measurement device to be provided in only one of the supply conduit or the return conduit. When only one pressure is measured, no pressure difference is determined or used by a controller to maintain a pressure difference constant.

It is submitted that using only one pressure measurement device is not obvious over Morse. Morse uses a complex apparatus for measuring and maintaining the pressure difference across the cryopumps constant. Surely, if such complexity were not deemed necessary by Morse, Morse would not have used such complexity. Simply leaving out the second pressure measurement device of Morse would not

-8-

result in a functional device according to claim 1. In order to keep the pressure difference constant, Morse must know both the supply pressure and the return pressure. Thus, in Morse, measuring both the return and the supply pressures is a necessary element/step.

By contrast, **claim 1** calls for the pressure measurement device to be provided on only one of the supply conduits or the return conduits, without determining a pressure difference between the supply and return conduits. Morse, does not disclose and would not lead one of ordinary skill in the art to believe that pressure control could be based on pressure measurements on only the supply or the return sides. **Okumura** does not disclose controlling pressure based on only pressure in the supply or return sides. Accordingly, it is submitted that Okumura does not cure the shortcomings of Morse.

It is therefor submitted that **claim 1** and further that **claims 2, 3, 5, 7, 8, 13, and 14 dependent therefrom** also distinguish patentably and unobviously over the references of record.

Method **claim 5** emphasizes that only one of the supply and return pressures are measured and that it is based on this single measurement that either the supply valve is opened to cause the medium to flow into the storage container, or a return valve is opened to cause the medium to flow from the storage container to the return conduits. Such control is clearly not shown or fairly suggested by Morse, Okumura, or a combination of the two.

Claims 4 and 6, which were previously indicated as containing allowable subject matter, have been placed in independent form. **Claim 11** has been cancelled, *without prejudice*, to limit the number of independent claims to the three covered by the base filing fee.

-9-

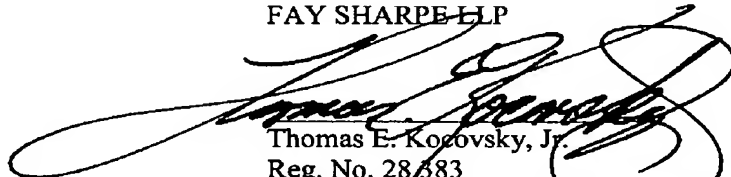
CONCLUSION

For the reasons set forth above, it is submitted that claims 1-10 and 12-14 distinguish patentably and unobviously over the references of record. An early allowance of all claims is requested.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he is requested to telephone Thomas Kocovsky at (216) 861-5582.

Respectfully submitted,

FAY SHARPE LLP

A large, stylized handwritten signature in black ink, likely belonging to Thomas E. Kocovsky, Jr., is written over the printed name and address.

Thomas E. Kocovsky, Jr.
Reg. No. 28,383
1100 Superior Avenue, 7th Floor
Cleveland, OH 44114-2579
(216) 861-5582

L:\HMM\DATA\2008\LYBZ200100.AMN.DOC